

Message Text

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PAGE 01 STATE 167629

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R 071505Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES

C O N F I D E N T I A L STATE 167629

E.O. 11652: GDS

TAGS: PFOR, PINS, PINT, PORG, SHUM

SUBJECT:ASYLUM AND TEMPORARY REFUGE

REF: 2 FAM 277, 278

1. DEPARTMENT IS CONCERNED ABOUT REPORTS OF HIGH LEVEL OF POLITICAL VIOLENCE IN ARGENTINA DIRECTED AT BOTH ITS CITIZENS AND NON-CITIZENS, EXILES, ASYLEES FROM CHILE, URUGUAY, AND BOLIVIA RESIDING IN ARGENTINA. DEPARTMENT NOTES THAT FOREIGN EMBASSIES HAVE GRANTED REFUGE OR PROTECTION FOR PERSONS WHO MIGHT BE TARGETS OF UNLAWFUL KILLING, KIDNAPING OR REPATRIATION. DEPARTMENT PROVIDES PRESENT INSTRUCTIONS REGARDING USEMB REFUGE AND PROTECTION FOR THESE POTENTIAL VICTIMS OF STATE OF LAWLESSNESS

2. REFERENCE IS MADE TO 2 FAM 227 AND 228 CONCERNING STAN-
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PAGE 02 STATE 167629

DARDS AND PROCEDURES GOVERNING REQUESTS FOR ASYLUM AND TEM-

PORARY REFUGE. DEPARTMENT WISHES TO EMPHASIZE AND AMPLIFY SEVERAL POINTS MADE BY THESE REGULATIONS. EVEN THOUGH IT IS NOT U.S. POLICY TO GRANT ASYLUM AT ITS UNITS OR INSTALLATIONS WITHIN THE JURISDICTION OF A FOREIGN STATE, NONETHELESS ALL REQUESTS FOR ASYLUM OR TEMPORARY REFUGE MUST BE DEALT WITH ON AN INDIVIDUAL BASIS TAKING INTO ACCOUNT RELEVANT HUMANITARIAN PRINCIPLES, THE URGENCY OF THE PARTICULAR CASE, APPLICABLE LAWS (INCLUDING SEC 212 (A) 27, 28 AND 29 OF INA), AVAILABILITY OF TEMPORARY ALTERNATE REFUGE AND OTHER RELEVANT FACTORS AND SHOULD NOT BE ARBITRARILY OR SUMMARILY REFUSED. DEPARTMENT MUST BE NOTIFIED IMMEDIATELY OF ALL SUCH REQUESTS.

3. PRESENT CONDITIONS ARGUE AGAINST A QUICK DECISION NOT TO PERMIT TEMPORARY REFUGE IF A PRIMA FACIE CASE OF JEOPARDY IS MADE. OF COURSE, IN REVIEWING PROBLEM DEPARTMENT WILL PARTICULARLY VALUE THE EMBASSY'S ON-THE-SPOT CASE-BY-CASE JUDGMENT AS TO THE DANGER TO LIFE OR SAFETY OF THE PETITIONER, HIS MOTIVATIONS, PERSONALITIES INVOLVED, AND OTHER PERTINENT FACTORS. NOTE THAT TEMPORARY REFUGE MAY BE GRANTED NOT ONLY TO INDIVIDUALS CLEARLY THREATENED WITH HARM BY A PURSUING GROUP BUT ALSO TO INDIVIDUALS CLAIMING PERSONAL DANGER IN THE ABSENCE OF VISIBLE THREAT IF THEY DEMONSTRATE THAT SAFETY IS INDEED AT STAKE. INDIVIDUALS AFFORDED TEMPORARY REFUGE SHOULD HAVE EVERY REASONABLE CARE AND PROTECTION. REFUGE WILL OF COURSE TERMINATE WITH CONCURRENCE OF DEPARTMENT WHEN THE PERIOD OF ACTIVE DANGER IS ENDED WHETHER ON BASIS ARRANGEMENTS WORKED OUT PURSUANT PARAGRAPH 4 BELOW OR OTHERWISE.

4. EMBASSY SHOULD NOW COMMUNICATE SIMULTANEOUSLY TO UNHCR AND GOA ITS FULL SUPPORT (1) OF POSITION OF GOA THAT IT WILL NOT FORCIBLY REPATRIATE A REFUGEE QUALIFYING AS SUCH AND (2) OF POSITION OF THE UNHCR THAT IT WILL SEEK TO AID SUCH PERSONS. EMBASSY SHOULD STATE THAT IF SUCH PERSONS APPROACH IT WITH ACUTE AND REASONABLE FEAR FOR THEIR LIVES AND WELL-BEING IT WILL DISCUSS MATTER THOROUGHLY WITH THEM, WITH WASHINGTON, AND ABOVE ALL WITH GOA AND UNHCR WITH VIEW TO ACHIEVING A COOPERATIVE SOLUTION TO THE PROBLEM. KISSINGER

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